



DAN MORALES  
ATTORNEY GENERAL

Office of the Attorney General  
State of Texas

June 11, 1991

Mr. Robert E. Diaz  
Assistant City Attorney  
P. O. Box 1065  
Arlington, Texas 76004-1065

OR91-299

Dear Mr. Diaz:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 11655.

The City of Arlington received a request for documents pertaining to an investigation of expenditures by its deputy city manager. You have released several memoranda and an audit report in response to this request, but have withheld an "Executive Summary to the Audit Report" prepared by the auditor for the city manager. You raise two exceptions under the Open Records Act to the required public disclosure of this information.

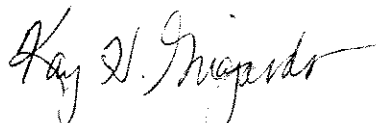
We begin by disposing of your false light privacy claim under section 3(a)(1). Recently, this office determined that section 3(a)(1) of the Open Records Act does not embrace the doctrine of false light privacy. Open Records Decision No. 579 (1990). Thus, we do not consider your 3(a)(1) claim based on false light privacy.

Your other 3(a)(1) claim involves the informer's privilege. This claim we reject, because the auditor's identity is known from the other information you have released, *see* Open Records Decision No. 202 (1978), and because the report contains no allegation of criminal activity. Open Records Decision No. 515 (1988).

We agree that you may withhold most of the report based on section 3(a)(11). To the extent that the report consists of advice, opinion, and recommendation used in the deliberative process, it is excepted from required public disclosure by section 3(a)(11). Open Records Decision No. 582 (1990). However, portions of the report reveal facts or factual occurrences during the investigation, to which the 3(a)(11) exception does not apply. *Id.*; Open Records Decision No. 563 (1990). We have marked the report accordingly.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR91-299.

Yours very truly,



Kay H. Guajardo  
Assistant Attorney General  
Opinion Committee

KHG/mc

Ref.: ID# 11655

Enclosures: Open Records Decision Nos. 579, 202, 515, 563, 582

cc: Ms. Catherine McMahon  
Managing Editor  
Fort Worth Star-Telegram  
1111 West Abram  
Arlington, Texas 76013